

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:

HBL SNF, LLC, d/b/a EPIC REHABILITATION
AND NURSING AT WHITE PLAINS,

Chapter 11

Case No. 21-22623 (SHL)

Debtor.

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WHITE PLAINS HEALTHCARE PROPERTIES I, LLC,

Plaintiff,

against

Adversary Proceeding

HBL SNF, LLC, LIZER JOZEFOVIC A/K/A LIZER
JOZEFOVIC, and MARK NEUMAN,

Case No. 21-07096 (SHL)

Defendants and Third-Party Plaintiffs,

against

CCC EQUITIES, LLC, PROJECT EQUITY
CONSULTING, THE CONGRESS COMPANIES,
HOWARD FENSTERMAN, WILLIAM NICHOLSON, and
METROPOLITAN COMMERCIAL BANK

Third-Party Defendants
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**ORDER GRANTING WHITE PLAINS HEALTHCARE
PROPERTIES I, LLC’S MOTION FOR PARTIAL SUMMARY JUDGMENT**

White Plains Healthcare Properties I, LLC (“WPHP”) having moved for partial summary judgment pursuant to Federal Rule of Civil Procedure 56, as incorporated in this proceeding by Federal Rule of Bankruptcy Procedure 7056 (the “Motion”) on the issue of whether the Amended and Restated Operating Lease (the “Lease”) with HBL SNF, LLC, d/b/a Epic Rehabilitation and

Nursing at White Plains (“Debtor”) was terminated prior to Debtor’s filing of the above-captioned Chapter 11 proceeding, and

Having reviewed the following record on said Motion:

- 1) WPHP’s initial Motion papers as filed in the Supreme Court of the State of New York, Westchester County (the “New York State Court Action”) prior to the removal of the action to this Court (Index No. 60278/2020, NYSCEF Doc. Nos. 183-230);
- 2) HBL’s memorandum of law in opposition to the Motion and its accompanying documents filed in the New York State Court Action (NYSCEF Doc. Nos. 236-255);
- 3) WPHP’s reply memorandum of law in further support of the Motion and its accompanying documents filed in the United States District Court for the Southern District of New York (Case No. 21 Civ. 9048 (PMH), ECF Nos. 37-40), after the Debtor filed its notice removing the New York State Court Action, but prior to the action being transferred to this Court on November 8, 2021, pursuant to the Amended Standing Order of Reference;
- 4) WPHP’s supplemental memorandum of law and accompanying documents filed with the Court in this action (Adv. Pro. Dkt. Nos. 33-34);
- 5) Defendant HBL’s supplemental memorandum of law and accompanying documents in opposition to the Motion filed with the Court in this action (Adv. Pro. Dkt. Nos. 35-38);
- 6) WPHP’s supplemental reply memorandum of law in further support of the Motion and accompanying documents filed with the Court in this action (Adv. Pro. Dkt. Nos. 42-43); and
- 7) HBL’s supplemental reply memorandum of law and accompanying documents in opposition to the Motion filed with the Court in this action (Adv. Pro. Dkt. Nos. 44-45).

AND having heard the arguments of counsel for the parties at the hearing held on March 24, 2022, and the transcript thereof having been submitted to the Court as part of the record in the case.

NOW, for the reasons set forth in the Memorandum of Decision dated May 20, 2022 (Adv. Pro. Dkt. No. 51) (the “Memorandum of Decision”), **IT IS HEREBY ORDERED** that:

- (1) WPHP’s Motion for partial summary judgment is granted, and
- (2) For the reasons set forth in the Memorandum of Decision it is the determination of this Court that the Lease was terminated prior to the commencement of the Debtor’s above-captioned Chapter 11 case.

Dated: June 28, 2022

/s/ Sean H. Lane
HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE